

REMARKS

It is noted that the Examiner has indicated in the Office Action summary that claims 90-139 are rejected and further on page 2 of the Office Action that claims 39-89 are rejected. For purposes of this Amendment it is assumed that the Examiner meant to state that claims 90-139 are rejected under the judicially created doctrine of obviousness-type double patenting.

Claims 90-139 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of United Patent 6,335,044 taken with Blanchard, et al., and either one of DE 3542075 or United States Patent 4,122,104 (Witte). For purposes of the record it should be noted that the Examiner has not identified Blanchard, et al., either by patent number or other identifier and further that the Notice of References Cited accompanying the last Office Action does not contain Blanchard, et al. It is requested that the Examiner complete the record with Blanchard, et al.'s identification.

Independent claims 90 and 126 have been amended to recite inter alia "comminution of the seeds is carried out by a cooled flocculating roller so as to maintain the seeds during comminution at a temperature below a temperature at which denaturation of the seeds occurs." Support for this amendment is found in paragraph [0016] of the Substitute Specification.

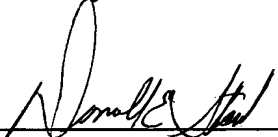
The Examiner's rejection of claims 90-139 is traversed. None of the prior art of record teaches the aforementioned maintaining of the seeds during comminution at a temperature below a temperature at which denaturation of the seeds occurs. Therefore, it would not be obvious to modify claims 1-32 of United States Patent 6,335,044 to arrive at the subject matter of claims 90

and 126 and the claims dependent therefrom. It is submitted that it would not be obvious to a person of ordinary skill in the art to modify the claims of United States Patent 6,335,044 with the subject matter of Blanchard, et al., as described by the Examiner (the undersigned has not had an opportunity to read Blanchard, et al., and assumes for purposes of this Amendment that Blanchard, teaches cooling of rollers for the stated purpose of avoiding material sticking to the rollers) to arrive at the subject matter of independent claims 90 and 126 and claims dependent therefrom.

In view of the foregoing amendments and remarks it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance there was respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 785,40641X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



Donald E. Stout  
Registration No. 26,422  
ANTONELLI, TERRY, STOUT & KRAUS, LLP

DES/vvr

Attachments